

**SENATE BILL**

**No. 26**

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**Introduced by Senators Pavley, Cedillo, Hancock, Steinberg, and Wolk**

February 4, 2010

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An act to add Division 16.2 (commencing with Section 26100) to the Public Resources Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 26, as introduced, Pavley. Energy: Property Assessed Clean Energy (PACE) financing.

(1) The California Alternative Energy and Advanced Transportation Financing Authority Act establishes the California Alternative Energy and Advanced Transportation Financing Authority and authorizes the authority to issue revenue bonds to provide industry with an alternative method of financing in providing and promoting the establishment of facilities utilizing alternative methods and sources of energy and facilities needed for the development and commercialization of advanced transportation technologies.

Existing law authorizes a public agency and a property owner to enter into voluntary contractual assessments to finance the installation of distributed generation of renewable energy sources, or energy or water efficiency improvements that are permanently affixed on real property.

This bill would require the authority to establish a Property Assessed Clean Energy (PACE) Reserve program to assist local jurisdictions in financing the installation of distributed generation of renewable energy sources or energy or water efficiency improvements that are permanently affixed on real property through the use of voluntary contractual

assessment. The bill would establish the PACE Reserve Account within the California Alternative Energy Authority Fund and would transfer, consistent with federal law, \$50,000,000 from moneys received pursuant to the federal American Recovery and Reinvestment Act of 2009 for energy-related purposes into the account. The moneys in the account are continuously appropriated to the authority for the purposes of the PACE Reserve Program, thereby making an appropriation. The bill would require unencumbered funds in the account, on or after January 1, 2015, to revert back to the originating fund. The bill would require the authority, on March 31, 2011, and annually thereafter, to submit to the Legislature, a report containing specified information regarding the implementation of the above provisions.

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Division 16.2 (commencing with Section 26100)  
2 is added to the Public Resources Code, to read:

3  
4 DIVISION 16.2. PROPERTY ASSESSED CLEAN ENERGY  
5 (PACE) FINANCING ASSISTANCE

6  
7 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

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9 26100. (a) The Legislature finds and declares all of the  
10 following:

11 (1) Property Assessed Clean Energy (PACE) financing has been  
12 pioneered by municipalities and counties in California as a way  
13 for home and small business owners to finance voluntary efficiency  
14 and clean energy improvements.

1 (2) PACE financing has gained interest from many other  
2 municipalities and other states, including Colorado and New York,  
3 that have also enacted enabling legislation.

4 (3) Cities like San Francisco, San Diego, and the California  
5 Statewide Communities Development Authorities (CSCDA) are  
6 working to launch additional programs.

7 (4) PACE programs create new jobs, lower energy demand, and  
8 help spur new clean industries that will help grow the economy.

9 (b) It is the intent of the Legislature to assist local jurisdictions  
10 in financing the installation of distributed generation of renewable  
11 energy sources or energy or water efficiency improvements that  
12 are permanently fixed to real property through the use of voluntary  
13 contractual assessments.

14 (c) It is not the intent of the Legislature to create any debt,  
15 liability, or obligation on the part of the state in assisting local  
16 jurisdictions pursuant to this division.

17 26101. Unless the context otherwise requires, the definitions  
18 in this chapter govern the construction of this division.

19 26102. “Account” means the PACE Reserve Account  
20 established pursuant to Section 26140.

21 26103. “Applicant” means a city, county, or joint power  
22 financing authority.

23 26104. “Authority” means the California Alternative Energy  
24 and Advanced Transportation Financing Authority established  
25 pursuant to Section 26004.

26 26105. “Property Assessed Clean Energy bond” or “PACE  
27 bond” means a bond that is secured by a voluntary contractual  
28 assessment on property authorized pursuant to paragraph (2) of  
29 subdivision (a) of Section 5898.20 of the Streets and Highways  
30 Code.

31 26106. “PACE program” means a program established by a  
32 city, county, or joint power financing authority that is financed by  
33 the PACE bond.

34 26107. This division does not create any liability or obligation  
35 upon the State of California and none shall be incurred by the  
36 authority beyond the extent to which moneys shall have been  
37 provided under this division. The authority shall not create any  
38 debt, liability, or obligation on the part of the State of California  
39 payable from any source whatsoever other than the moneys  
40 provided under this division.

## CHAPTER 2. PACE RESERVE PROGRAM

26120. The authority shall develop and administer a PACE Reserve program to reduce overall costs of PACE bonds issued by an applicant by providing a reserve of no more than 10 percent of the amount of the PACE bond.

26121. To qualify for assistance pursuant to this division, the PACE program shall require all of the following:

(a) Improvements financed by the PACE bond are performed by qualified contractors that are licensed by the Contractor State Licensing Board.

(b) The interest rate on the PACE bond does not exceed a percentage as determined by the authority to be appropriate.

(c) Minimum loan structure and credit underwriting criteria as determined by the authority are met.

(d) Loans in the program are used for qualified efficiency and clean energy improvements.

26122. An applicant shall submit to the authority an application providing a detailed description of the PACE program, a detailed description of the transactional activities associated with the PACE bond issuance, including all transactional costs, and other information deemed necessary by the authority.

26123. In evaluating an application, the authority shall consider all of the following factors:

(a) The use of best practices in underwriting the PACE bond issuance.

(b) The cost efficiency of the transactional activities in the bond issuance.

(c) The projected number of jobs created by the PACE program.

(d) The provision of a guarantee as to the minimum performance of the improvements installed pursuant to the PACE program.

26124. Upon the approval of an application, the authority shall establish an escrow or similar mechanism, utilizing funds in the account, to further the purposes of the PACE program. Unencumbered funds shall be periodically transferred back to the authority for the purposes of this division.

CHAPTER 3. PACE RESERVE ACCOUNT AND REPORTING

26140. (a) There is in the California Alternative Energy Authority Fund the PACE Reserve Account. Notwithstanding Section 13340 of the Government Code, the moneys in the account shall be continuously appropriated to the authority solely for the purposes of this division.

(b) Fifty million dollars (\$50,000,000) from the moneys received from the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) for energy-related purposes is hereby, consistent with federal law, transferred to the account.

(c) To the extent amounts in the account are not required for current obligations or expenditure, those amounts shall be invested in interest-bearing obligations, and the interest earned shall become part of the account.

(d) Any amount appropriated from the account for purposes other than those specified in this division shall be repaid to the account within one year from that appropriation.

(e) On and after January 1, 2015, any unencumbered amounts in the account shall revert to the original accounts.

26141. On March 31, 2011, and annually thereafter, the authority shall submit to the Legislature a report on all of the following:

(a) The status of the account.

(b) A summary of the PACE bonds that received assistance pursuant to this division.

(c) A summary of the benefits provided by this division, including reduced interest rates on the PACE bonds receiving assistance pursuant to this division.

(d) The number of jobs created by the PACE programs that received assistance pursuant to this division.

(e) Information on energy savings resulting from the PACE programs that received assistance pursuant to this division.

(f) Other information deemed appropriate by the authority.

SEC. 2. This act addresses the fiscal emergency declared by the Governor by proclamation on January 8, 2010, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

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